

LAND COURT SYSTEM	REGULAR SYSTEM
RETURN BY MAIL (X) PICKUP () TO:	

County of Kaua'i
 Planning Department
 4444 Rice Street, Suite A473
 Līhu'e, Hawai'i 96766

FARM DWELLING AGREEMENT

THIS AGREEMENT made and entered into by and between

_____ ,

whose mailing address is _____

_____ ,

hereinafter called the "APPLICANT(S)", and the COUNTY OF KAUAI PLANNING DEPARTMENT, whose business and mailing address is 4444 Rice Street, Suite A473, Līhu'e, Hawai'i 96766, hereinafter called the 'DEPARTMENT'.

W I T N E S S E T H

WHEREAS, the APPLICANT(S) warrant and represent that they are the

_____ of that certain parcel of land,

Tax Map Key No. _____ ,

more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, this document pertains only to _____
as shown in Exhibit "B" and made a part hereof; and

WHEREAS, that certain parcel of land is classified "Agricultural" by the State Land Use Commission and is zoned "Agriculture" by the County of Kaua'i; and

WHEREAS, Chapter 205, Hawai'i Revised Statutes, and the State Land Use District Regulations only permit "farm dwellings" within the State Agricultural Land Use District unless otherwise relieved from the restriction by a special permit obtained pursuant to Chapter 205, Section 6, Hawai'i Revised Statutes; and

WHEREAS, a "farm dwelling" is defined by Chapter 205, Hawai'i Revised Statutes, and the State Land Use District Regulations as "a single-family dwelling located on and used in connection with a farm where agricultural activity provides income to the family occupying the dwelling"; and

WHEREAS, the parcel identified by Tax Map Key No. _____
is entitled to _____ residential units and one guest house; and

WHEREAS, this agreement is evidenced that _____
is entitled to one of those residence units; and

WHEREAS, a "family" as used in the definition of a "farm dwelling" is defined by the State Land Use District Regulations as "an individual or two or more persons related by blood, marriage or adoption or a group comprising not more than five persons, not related by blood, marriage or by adoption"; and

WHEREAS, the APPLICANT(S) acknowledge that a violation of Chapter 205, Hawai'i Revised Statutes, and the State Land Use Agricultural District restriction is subject to a citation and fine of not more than \$5,000.00 pursuant to Chapter 205, Section 13, Hawai'i Revised Statutes, as amended; and

WHEREAS, the APPLICANT(S) also acknowledge that failure to abide by this agreement may result in the removal of the prohibited structure at the owner's expense; and

WHEREAS, the DEPARTMENT is charged with the enforcement of the restriction by Chapter 205, Hawai'i Revised Statutes;

WHEREAS, the APPLICANT(S) wish to construct a dwelling unit on that certain parcel of land described in Exhibit "A"; and

WHEREAS, the APPLICANT(S) wish to execute this Farm Dwelling Agreement without first obtaining the signatures of all interest holders in the CPR;

NOW THEREFORE, for and in consideration of the terms, covenants and conditions hereafter contained, the parties hereby mutually agree as follows:

1. That the dwelling permitted to be constructed on the parcel of land described in Exhibit "A" classified Agricultural by the State Land Use Commission shall be a "farm dwelling" as defined by Chapter 205, Hawai'i Revised Statutes, and the State Land Use District Regulations, as recited herein; and
2. That the dwelling shall only be occupied by a "family", as defined by the State Land Use District Regulations and as recited herein, who derive income from the agricultural activity on the parcel; and
3. That the APPLICANT(S) and all present and future owners, lessees and occupants of said land grant the DEPARTMENT the right of entry at the request of the DEPARTMENT to inspect the premises to assure compliance with the provisions of this agreement; and
4. That this agreement shall be a covenant running with the land and be binding on the APPLICANT(S), and all present and future owners, lessees and occupants of said land and anyone claiming under said APPLICANT(S), their heirs, executors, administrators, successors and assigns, as owners or occupants thereof or otherwise; and
5. That this agreement shall remain in effect so long as the land retains its Agricultural District classification under the State Land Use Commission and the pertinent restrictive provisions of Chapter 205, Hawai'i Revised Statutes, and the State Land Use District Regulations remain in effect; and
6. That the APPLICANT(S) expressly set forth the provisions of this agreement in any subsequent conveyance, deed, lease or rental agreement to said property executed by them, so as to give effect to said covenant; and
7. That this agreement shall be recorded with the State of Hawaii Bureau of Conveyances, fees to be paid by the APPLICANT(S).
8. The DEPARTMENT and APPLICANT(S) shall execute the Farm Dwelling Agreement; and
9. The APPLICANT(S), for themselves (himself/herself), their (his/her) heirs, administrators, successors and assigns, do hereby waive and release the DEPARTMENT and the County of Kaua'i, a political subdivision of the State of Hawai'i, whose principle place of business is 4444 Rice Street, Suite 473, Līhu'e, Hawai'i, 96766, from all claims and causes of action, either legal or equitable, which may hereafter accrue by reason of the DEPARTMENT'S execution of said Farm Dwelling Agreement; and

10. THE APPLICANT (S) do (es) hereby promise to indemnify and hold the DEPARTMENT and the County of Kaua'i, its successors, assigns, offices, employees, agents, attorneys or any other person or legal entity connected with or legally responsible to them, harmless from any and all claims, actions, causes of action, lawsuits, demands or liability for damages of whatever kind and nature, arising out of the DEPARTMENT'S execution of said Farm Dwelling Agreement; and

11. This agreement shall be a covenant running with the portion of land described in Exhibit "A", and shall be binding on APPLICANT (S) and all present and future owners and occupants of said portion of land and any one claiming under APPLICANT (S), their successors, and assigns, as owners or occupants thereof. The APPLICANT (S) further agree (s) to expressly set forth the provisions of this waiver and indemnity agreement in any subsequent conveyance, deed, lease, or rental agreement so as to give effect to said covenant.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the _____ day of _____.

APPROVED:

Applicant(s)

Director of Planning
County of Kaua'i
Planning Department

APPROVED AS TO FORM
AND LEGALITY:

County Attorney

STATE OF HAWAII')
) ss.
COUNTY OF KAUAI')

On this day of _____, before me
personally appeared _____
_____, to
me known to be the person described in and who executed the foregoing instrument,
and acknowledge that _____ executed the same as _____ free
act and deed.

Notary Public, State of Hawai'i

My commission expires: _____

STATE OF HAWAI'I)
) ss.
COUNTY OF KAUAI')

On this day of _____, before me
appeared _____, to me personally
known, who being by me duly sworn, did say that he is the _____
_____of the PLANNING DEPARTMENT of
the COUNTY OF KAUAI; and that said instrument was executed on behalf of said
PLANNING DEPARTMENT; and that said _____
acknowledged that he executed the same as his free act and deed of the PLANNING
DEPARTMENT of the COUNTY OF KAUAI. Said Department has no seal.

Notary Public, State of Hawai'i

My commission expires:_____